

REMARKS

Claims presented for prosecution in this application are claims 1-13 and 16. Claims 1, 2 and 9-12 have been rejected over cited prior art. Claims 3-8 and 13 have been indicated as containing allowable subject matter. Claim 16 has been newly added. In view of Applicant's remarks below, Applicant respectfully submits that claims 1-13 and 16 are in condition for allowance. Accordingly, Applicant respectfully requests that the present Preliminary Amendment be considered, the rejections to the claims be withdrawn, and that the case now be passed to issue.

The 35 USC 102(b) Rejection of Claims 1-2 and 9-11 over Jolidon

The Examiner has rejected claims 1-2 and 9-11 as being anticipated by Jolidon ('820). Applicant respectfully asserts that Jolidon does not disclose, at least, each and every aspect of independent claims 1 and 10.

Independent claim 1 explicitly recites, *inter alia*,

"a slide removably mounted on the frame ...

an access port disposed in the slide, wherein the slide includes a cartridge ejection port and may be in a chamber closed position and a chamber open position;

wherein when the slide is in said chamber closed position, said sear is accessible through said access port."

Similarly, independent claim 10 explicitly recites, *inter alia*,

"a slide removably mounted on the frame;

a firing mechanism; and

an access port disposed in the slide, said access port being separate from a cartridge ejection port formed in said slide;

wherein the firing mechanism is accessible through the access port and can be manipulated to allow removal of the slide from the frame."

In stark contrast, Applicant respectfully asserts that Jolidon does not disclose or suggest, at least, an access port disposed in the slide and through which the sear is accessible, as recited in both independent claims 1 and 10.

With respect to the Examiner's apparent interpretation of Jolidon's frame opening for accommodating the hammer (6) as reading upon Applicant's 'access port', for the purposes of anticipating the above-referenced portion of claims 1 and 10, Applicant respectfully traverse this interpretation of Jolidon.

Firstly, Applicant asserts that the opening created by the movement of Jolidon's hammer to its firing position is an opening created in the *frame* of the handgun, not the slide. Insofar that Jolidon arguably teaches a rear opening in the slide (4) for accommodating Jolidon's firing pin (39), Applicant contends that Figures 3, 18 and, especially, 19 clearly illustrate that the opening for the firing pin (39) does not communicate with the opening created by the movement of Jolidon's hammer (6). Moreover, as Jolidon is silent as to any opening in Jolidon's slide which may be in communication with the sear mechanism of Jolidon's handgun, Applicant asserts that the Examiner's sole reliance on the drawing figures of Jolidon fail to clearly show the relationship recited in independent claims 1 and 10.

In sum, none of Jolidon's drawing figures illustrate an opening in Jolidon's slide (4) which would permit access to Jolidon's sear (16), nor does any disclosure within Jolidon support the Examiner's interpretation in this regard..

In light of MPEP § 706.02, which states that "*for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly*", Applicant respectfully requests that the Examiner indicate where it is shown or described in Jolidon that an "access port" is defined in Jolidon's slide (4) through which the sear may be accessed, especially in light of Figures 18 and 19 which actually show the cross-section of the slide (4) and explicitly illustrate that the opening "adjacent 39 contains 6" (as expressed by the Examiner) does not, in fact, communicate with the area containing the sear. In this regard, Applicant specifically references Jolidon, column 1,

lines 19-22 in which the illustration (Figure 3) upon which the Examiner is apparently relying to support such a proposition, specifically states that Figure 3 illustrates, "the rear end of the frame and breech slide *with parts broken away to show construction*" (emphasis added).

With further reference to Jolidon's Figure 3, Applicant asserts that Figure 3 merely illustrates a cut-away view of the hammer as disposed in the *frame* of Jolidon's handgun, and that the drawing line located slightly above reference numerals 8/9 in Figure 3 illustrates the structural isolation of the sear area from the opening in slide (4) in which the firing pin (39) is disposed, there being no communication between these two areas, as required by the present claims. Moreover, to the extent that the movement of Jolidon's hammer (6) defines a slot, or the like, through the plane of the drawing line slightly above reference numerals 8/9, Applicant contends that this slot may merely provide an access from the hammer opening in the frame to *the area behind* (note: not 'part of') the slide 4. That is, Applicant asserts that Jolidon's Figure 3, when considered in light of the drawing line slightly above reference numerals 8/9 and in conjunction with Figures 18 and 19, cannot read upon Applicant's access port disposed in the slide of the firearm through which the sear is accessible.

Applicant further note that the term, 'slide' as it is used in the art has an established meaning which does not include the 'frame' of the handgun *per se*. Therefore, pursuant to MPEP § 2111.01 which states that "the words of a claim must be given their 'plain meaning'" and that "'plain meaning' refers to the meaning given to the term by those of ordinary skill in the art", Applicant contends that any interpretation of Jolidon's hammer opening as reading upon Applicant's access port in the slide of the firearm, exceeds the appropriate breath of the term as it is utilized in the art. That is, if the Examiner is in fact reading Applicant's claimed "slide" and "access port" on the opening in Jolidon's frame which accommodates movement of the hammer element, then Applicant respectfully requests that the Examiner clearly state as much in any subsequent Office Action.

Indeed, Applicant contends that claims 1 and 10 further define the 'slide' as being that structural element which "includes an injection port" and, as such, cannot be read upon Jolidon's hammer opening in the rear of the handgun. Specific response to this point is also respectfully requested by the Examiner.

In essence, Applicant contends that Jolidon's specification is totally silent on the claimed subject matter at issue, as discussed above, and further, that Jolidon's drawing figures (especially Figures 18 and 19; Figure 3 merely being a cut-away view) actually *teach away from* the existence of an access port in Jolidon's slide which provides access to the sear. Applicant earnestly submits that it is not enough for the Examiner to *think* that Jolidon *may* illustrate an access port as recited by Applicant, or to infer that Jolidon's handgun *may* have a passage between the firing pin bore of the handgun and Jolidon's frame opening for the hammer. Rather, Applicant asserts that unless Jolidon unambiguously and definitively shows each and every aspect of Applicant recited elements, an anticipatory rejection of Applicant's claims over Jolidon's ambiguous drawing figures, without any support in Jolidon's specification, is not tenable. Applicant thus believes that an anticipatory rejection based upon Jolidon is overreaching and, therefore, respectfully request that the anticipatory rejection of claims 1 and 10 over Jolidon, including those claims dependent thereon, be withdrawn.

Should the Examiner repeat the outstanding rejection, Applicant again respectfully requests that the Examiner specifically address the lack of any clear drawing figure in Jolidon which illustrates the access port in Jolidon's slide; address Jolidon's Figures 18 and 19 which clearly show that no opening through the body of the slide communicates with the interior (let alone sear element) of Jolidon's firearm; and discuss the structural significance of the drawing line located slightly above reference numerals 8/9 in Jolidon's Figure 3.

The 35 USC 102(b) Rejection of Claims 1-2 and 9-11 over Hochstrate

The Examiner has rejected claims 1-2 and 9-11 as being anticipated by Hochstrate ('973). Applicant respectfully asserts that Hochstrate does not disclose, at least, each and every aspect of independent claims 1 and 10.

Independent claim 1 explicitly recites, *inter alia*,

"a slide removably mounted on the frame ...

an access port disposed in the slide, wherein the slide includes a cartridge ejection port and may be in a chamber closed position and a chamber open position;

wherein when the slide is in said chamber closed position, said sear is accessible through said access port."

Similarly, independent claim 10 explicitly recites, *inter alia*,

"a slide removably mounted on the frame;

a firing mechanism; and

an access port disposed in the slide, said access port being separate from a cartridge ejection port formed in said slide;

wherein the firing mechanism is accessible through the access port and can be manipulated to allow removal of the slide from the frame."

In stark contrast, Applicant respectfully asserts that Hochstrate does not disclose or suggest, at least, an access port disposed in the slide and through which the sear is accessible, as recited in both independent claims 1 and 10.

With respect to the Examiner's apparent interpretation that Hochstrate's frame opening for accommodating the hammer (44) reads upon Applicant's 'access port', for the purposes of anticipating the above-referenced portion of claims 1 and 10, Applicant respectfully traverse this interpretation of Hochstrate.

Firstly, Applicant asserts that the opening created by the movement of Hochstrate's hammer to its firing position is an opening created in the *frame* of the

handgun, not the slide. Insofar that Hochstrate arguably teaches a rear opening in the slide (15) for accommodating Hochstrate's firing pin (40), Applicant contends that Figure 2 clearly illustrates that the opening for the firing pin (40) does not communicate with the opening created by the movement of Hochstrate's hammer (44). Specific reference to this point is respectfully requested by the Examiner should the present rejection be maintained.

Moreover, as Hochstrate is silent as to any opening in Hochstrate's slide which may be in communication with the sear mechanism of Hochstrate's handgun, Applicant asserts that the Examiner's sole reliance on the drawing figures of Hochstrate fails to clearly show the relationship recited in independent claims 1 and 10. That is, none of Hochstrate's drawing figures illustrate an opening in Hochstrate's slide (15) which would permit access to Hochstrate's sear (62/100). Specific reference to this point is also respectfully requested by the Examiner.

With particular reference to Hochstrate's Figure 2, Applicant asserts that Figure 2 merely illustrates a hammer opening formed in the *frame* of Hochstrate's handgun, and that the drawing line located slightly above reference numeral 108 in Figure 2 illustrates the structural isolation of the hammer opening. Moreover, to the extent that the movement of Hochstrate's hammer (44) defines a slot, or the like, through the plane of the drawing line slightly above reference numeral 108, Applicant contends that this slot may merely provide an access from the hammer opening in the frame to *the area behind* (note: not 'part of') the slide 15. That is, Applicant asserts that Hochstrate's Figure 2, when considered in light of the drawing line slightly above reference numeral 108 and in conjunction with Figures 8, cannot read upon Applicant's access port disposed in the slide of the firearm through which the sear is accessible.

Indeed, as seen in Figure 2, the only opening, or "access port", illustrated in Hochstrate's slide (15) is, arguably, the opening that accommodates Hochstrate's firing pin (40), and there is no teaching or disclosure that this opening permits communication with Hochstrate's sear (46). In fact, Figure 2 teaches away from any such an interpretation.

Applicant further notes that the term, 'slide' as it is used in the art has an established meaning which does not include the 'frame' of the handgun *per se*. Therefore, pursuant to MPEP § 2111.01 which states that "the words of a claim must be given their 'plain meaning'" and that "'plain meaning' refers to the meaning given to the term by those of ordinary skill in the art", Applicant contends that interpretation of Hochstrate's hammer opening as reading upon Applicant's access port in the slide of the firearm, exceeds the appropriate breadth of the term as it is utilized in the art. That is, if the Examiner is reading Applicant's claimed "slide" and "access port" on the opening in Hochstrate's frame which accommodates movement of the hammer element, then Applicant respectfully requests that the Examiner clearly state as much in any subsequent Office Action.

Indeed, Applicant contends that claims 1 and 10 further define the 'slide' as being that structural element which "includes an ejection port" and, as such, cannot be read upon Hochstrate's hammer opening in the rear of the handgun's frame.

In essence, Applicant contends that Hochstrate's specification is totally silent on the claimed subject matter at issue, as discussed above, and further, that Hochstrate's drawing figures simply teach away from any existence of an access port in Hochstrate's slide which provides access to the sear. Applicant earnestly submits that it is not enough for the Examiner to think that Hochstrate *may* illustrate an access port as recited by Applicant, or to infer that Hochstrate's handgun *may* have a passage between the firing pin bore of the handgun and Hochstrate's frame opening for the hammer. Rather, Applicant asserts that unless Hochstrate unambiguously and definitively shows each and every aspect of Applicant's recited elements, an anticipatory rejection of Applicant's claims over Hochstrate's ambiguous drawing figures is not tenable.

Applicant thus believes that an anticipatory rejection based upon Hochstrate is overreaching and, therefore, respectfully request that the anticipatory rejection of claims 1 and 10 over Hochstrate, including those claims dependent thereon, be withdrawn.

Should the Examiner repeat the outstanding rejection, Applicant respectfully requests that the Examiner specifically address the lack of any clear drawing figure in Hochstrate which illustrates the access port in Hochstrate's slide, as well as discuss the structural significance of the drawing line located slightly above reference numeral 108 in Hochstrate's Figure 2.

The 35 USC 102(b) Rejection of Claims 1-2 and 9-11 over Tuma

The Examiner has rejected claims 1-2 and 9-11 as being anticipated by Tuma ('796). Applicant respectfully asserts that Tuma does not disclose, at least, each and every aspect of independent claims 1 and 10.

Independent claim 1 explicitly recites, *inter alia*,
"a slide removably mounted on the frame ...
an access port disposed in the slide, wherein the slide includes a cartridge ejection port and may be in a chamber closed position and a chamber open position;
wherein when the slide is in said chamber closed position, said sear is accessible through said access port."

Similarly, independent claim 10 explicitly recites, *inter alia*,
"a slide removably mounted on the frame;
a firing mechanism; and
an access port disposed in the slide, said access port being separate from a cartridge ejection port formed in said slide;
wherein the firing mechanism is accessible through the access port and can be manipulated to allow removal of the slide from the frame."

In stark contrast, Applicant respectfully asserts that Tuma does not disclose or suggest, at least, an access port disposed in the slide and through which the sear is accessible, as recited in both independent claims 1 and 10.

With respect to the Examiner's apparent interpretation that Tuma's frame opening for accommodating the hammer (4) reads upon Applicant's 'access port', for the purposes of anticipating the above-referenced portion of claims 1 and 10, Applicant respectfully traverses this interpretation of Tuma.

Firstly, Applicant asserts that the opening created by the movement of Tuma's hammer to its firing position is an opening created in the *frame* of the handgun, not the slide. Insofar that Tuma arguably teaches a rear opening in the slide (1) for accommodating Tuma's firing pin (14), Applicant contends that Figures 1-4 and 7 clearly illustrate that the opening for the firing pin (14) does not communicate with the opening created by the movement of Tuma's hammer (4). Moreover, as Tuma is silent as to any opening in Tuma's slide which may be in communication with the sear mechanism of Tuma's handgun, Applicant asserts that the Examiner's sole reliance on the drawing figures of Tuma fail to clearly show the relationship recited in independent claims 1 and 10. That is, none of Tuma's drawing figures illustrate an opening in Tuma's slide (1) which would permit access to Tuma's sear (3).

With particular reference to Tuma's Figures 1 and 2, Applicant asserts that Figures 1 and 2 merely illustrates a hammer opening formed in the *frame* of Tuma's handgun, and that the drawing line located slightly above reference numeral 3 in Figure 2 illustrates the structural isolation of the hammer opening. Moreover, to the extent that the movement of Tuma's hammer (4) defines a slot, or the like, through the plane of the drawing line slightly above reference numeral 3, Applicant contends that this slot may merely provide an access from the hammer opening in the frame to *the area behind* (note: not 'part of') the slide 1. That is, Applicant asserts that Tuma's Figures 1 and 2, when considered in light of the drawing line slightly above reference numeral 3 and in conjunction Tuma's other drawing figures, cannot read upon Applicant's access port disposed in the slide of the firearm through which the sear is accessible.

Applicant further notes that the term, 'slide' as it is used in the art has an established meaning which does not include the 'frame' of the handgun *per se*. Therefore, pursuant to MPEP § 2111.01 which states that "the words of a claim must be

given their 'plain meaning'" and that "'plain meaning' refers to the meaning given to the term by those of ordinary skill in the art", Applicant contends that interpretation of Tuma's hammer opening as reading upon Applicant's access port in the slide of the firearm, exceeds the appropriate breath of the term as it is utilized in the art. That is, if the Examiner is reading Applicant's claimed "slide" and "access port" on the opening in Tuma's frame which accommodates movement of the hammer element, then Applicant respectfully requests that the Examiner clearly state as much in any subsequent Office Action.

Indeed, Applicant contends that claims 1 and 10 further define the 'slide' as being that structural element which "includes an injection port" and, as such, cannot be read upon Tuma's hammer opening in the rear of the handgun.

In essence, Applicant contends that Tuma's specification is totally silent on the claimed subject matter at issue, as discussed above, and further, that Tuma's drawing figures simply teach away from any existence of an access port in Tuma's slide which provides access to the sear. Applicant earnestly submits that it is not enough for the Examiner to think that Tuma *may* illustrate an access port as recited by Applicant, or to infer that Tuma's handgun *may* have a passage between the firing pin bore of the handgun and Tuma's frame opening for the hammer. Rather, Applicant asserts that unless Tuma unambiguously and definitively shows each and every aspect of Applicant's recited elements, an anticipatory rejection of Applicant's claims over Tuma's ambiguous drawing figures is not tenable. Applicant thus believes that an anticipatory rejection based upon Tuma is overreaching and, therefore, respectfully request that the anticipatory rejection of claims 1 and 10 over Tuma, including those claims dependent thereon, be withdrawn.

Should the Examiner repeat the outstanding rejection, Applicant respectfully requests that the Examiner specifically address the lack of any clear drawing figure in Tuma which illustrates the access port in Tuma's slide, as well as discuss the structural significance of the drawing line located slightly above reference numeral 3 in Tuma's Figure 2.

The 35 USC 103(a) Rejection of Claim 12 over Toma in view of Thomas

The Examiner has rejected claim 12 as being obvious over Toma in view of Thomas. Applicant respectfully asserts that Toma in view of Thomas does not disclose, at least, each and every aspect of newly amended independent claims 1 and 10.

With general respect to claim 12, Applicant asserts that claim 12 is allowable for at least the reasons that claims 1 and 10 are allowable, as discussed previously, Thomas adding no pertinent disclosure to the teaching of Toma in this regard.

Applicant therefore respectfully requests that the existing rejection to claim 12 now be withdrawn.

New Claim 16

Applicant has newly proposed claim 16 to further define Applicant's invention, and assert that none of the cited prior art anticipates, or renders obvious, the recited elements of claim 14 in total.

CONCLUSION

In view of the remarks above, it is respectfully submitted that claims 1-13 and 16 are allowable, and an early action to that effect is earnestly solicited.

The Examiner is invited to contact the undersigned at the number below to expedite resolution of any issues that the Examiner may consider to remain unresolved. In particular, should a Notice of Allowance not be forthcoming, the Examiner is requested to phone the undersigned for a telephonic interview, Examiner's amendment, or the like, while the outstanding issues are fresh in the mind of the Examiner.

It is believed that no additional fees or deficiencies in fees are owed. However, authorization is hereby given to charge our Deposit Account No. 13-0235 in the event any additional fees are owed.

Respectfully submitted,

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